

99-1184 & 99-1185 W.E.H. v. Rubber Engineering Issued: 10/31/01

W. E. H. asks the Utah Labor Commission to review the Administrative Law Judge's decision regarding Mr. H.'s claim for medical care under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

ISSUES PRESENTED

Should the medical panel be instructed to reconsider and explain its opinion regarding Mr. H.'s need for future medical care of his work-related injuries? Alternatively, should a hearing be held on the medical panel's report.

BACKGROUND

The Commission affirms and adopts the findings of fact set forth in the decision of the ALJ. In summary, while Mr. H. was employed by Rubber Engineering, he was involved in two separate work-related accidents. He has undergone two back surgeries and is now permanently and totally disabled from his injuries. He continues to suffer from chronic pain.

This proceeding relates to Mr. H.'s request for additional back surgery to treat his injuries. Due to conflicting medical opinions over the necessity of such additional surgery, the ALJ appointed an impartial medical panel to consider that question. The panel included specialists in neuropsychology, internal medicine and cardiovascular disease, orthopedic surgery, and psychiatry. The panel thoroughly reviewed Mr. H.'s medical history and personally examined Mr. H. himself. The panel then concluded that additional surgery was not appropriate, but that Mr. H. should receive medication for depression, pain and sleep disorder and that his use of such medications should be monitored with periodic visits with his physician.

After the medical panel submitted its report to the ALJ, Mr. H. filed objections to the report's form and conclusions. Mr. H. asked the ALJ to either obtain clarification of the panel's findings or schedule an evidentiary hearing on the matter. The ALJ denied Mr. H. request and, instead, accepted the medical panel's report and incorporated its recommendations in her decision and order.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-418 of the Utah Workers' Compensation Act requires employers and their insurance carriers to pay the reasonable cost of medical care "necessary to treat" the work-related injuries of employees. In this case, a medical panel was asked for its opinion of whether additional surgery was necessary to treat Mr. H.'s work-related back injury.

The medical panel included a broad spectrum of medical specialties. The record establishes that the panel engaged in a comprehensive review of the history and development of Mr. H.'s current medical problems. The panel also appears to have thoroughly examined Mr. H.. Based on all this information, the panel unanimously submitted a report which clearly states the panel's opinion that no further surgery is appropriate for treatment of Mr. H.'s work-related back injury.

The Commission recognizes that a fuller explanation of the panel's reasoning and analysis would have benefitted the participants in this adjudicative proceeding. Nevertheless, the panel's report provides a

sufficient explanation to allow the parties to understand and respond to it. The Commission is aware of no contrary medical opinion that substantially detracts from the panel's opinion. The Commission agrees with the ALJ that the medical panel's report is persuasive and that no sufficient reason exists to either refer this matter back to the medical panel or to conduct a hearing on the report.

ORDER

The Commission affirms the decision of the ALJ and denies Mr. H.'s motion for review. It is so ordered.

Dated this 31st day of October, 2001.

R. Lee Ellertson, Commissioner